

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO.1981 OF 1995

THE HON'BLE MR. JUSTICE Y.B. BHATT:

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Appearance:

Mr. P.J. Patel, advocate for the petitioners.
Mr. V.S. Shah, advocate for the respondents.

CORAM: Y.B. BHATT J.

Date of Decision: 12-12-1995

JUDGEMENT

1. Rule. Mr. V.S. Shah, learned advocate waives service of rule.
2. By consent and at the request of learned counsel for the parties, rule is taken up for hearing today.
3. As a result of the hearing, a consensus has been

arrived at between the learned counsel. In this context, and even otherwise on merits, this court is required to observe that the lower revisional court has unnecessarily entered into the issue as to whether the applicants-proposed heirs are or would be tenants within the meaning of section 5(11)(c) of the Bombay rent Act. The only question which was before the lower court was the prayer made under Exh.40 viz. that the applicants be joined as applicant nos.1 and 2 in the pending revision. Thus, apart from the question of whether the applicants have proved the true and correct identity (name) of the deceased tenant, merely by permitting them to be joined as heirs and legal representatives would not cause any prejudice to the other side. It is, therefore, clarified that merely by permitting the applicants to join as heirs and legal representatives of the deceased-tenant would not confer on them the status of a tenant within the meaning of section 5(11)(c) of the said act. This would depend only upon the proved facts. If and when the question arises, it shall be open to such legal representatives to take appropriate proceedings, and it shall be open to the lower court to decide the same in accordance with law (after recording evidence if necessary). Accordingly, the applicants of Exh.40 are permitted to join as applicant nos.1 and 2 in the pending revision before the lower court. Rule is made absolute accordingly with no order as to costs.
